

(b) *True seed (fuzz)*: Immerse in 0.525 percent sodium hypochlorite solution for 30 minutes (solution shall contain 1 part of solution containing 5.25 percent sodium hypochlorite with 9 parts water by volume). Air dry at least 8 hours before packaging.

(c) *Bagasse*: Subject to dry heat at 70 °C (158 °F) for 2 hours.

(d) *Sugarcane harvesting and processing equipment*: Remove all debris and soil from the equipment with water at high pressure (at least 300 pounds per square inch) or with steam.

(e) *Sugarcane juice*: Heat at 100 °C (212 °F) for 10 or more minutes.

[48 FR 50059, Oct. 31, 1983, as amended at 52 FR 31374, Aug. 20, 1987]

Subpart—Karnal Bunt

SOURCE: 61 FR 52207, Oct. 4, 1996, unless otherwise noted.

§ 301.89-1 Definitions.

Actual price received. The net price after adjustment for any premiums or discounts stated on the sales receipt.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

Certificate. A document in which an inspector or a person operating under a compliance agreement affirms that a specified regulated article meets the requirements of this subpart and may be moved to any destination.

Compliance agreement. A written agreement between APHIS and a person engaged in growing, handling, or moving regulated articles, in which the person agrees to comply with the provisions of this subpart and any conditions imposed under this subpart.

Contaminated seed. Seed from sources in which the Karnal bunt pathogen (*Tilletia indica* (Mitra) Mundkur) has been determined to exist.

Contract price. The net price after adjustment for any premiums or discounts stated in the contract.

Conveyances. Containers used to move wheat, durum wheat, or triticale, or their products, including trucks,

trailers, railroad cars, bins, and hoppers.

Distinct definable area. A commercial wheat production area of contiguous fields that is separated from other wheat production areas by desert, mountains, or other nonagricultural terrain as determined by an inspector, based on survey results.

Farm tools. An instrument worked or used by hand, e.g., hoes, rakes, shovels, and axes.

Grain storage facility. That part of a grain handling operation or unit or a grain handling operation, consisting of structures, conveyances, and equipment that receive, unload, and store, grain, and that is able to operate as an independent unit from other units of the grain handling operation. A grain handling operation may be one grain storage facility or may be comprised of many grain storage facilities on a single premises.

Infestation (infected). The presence of Karnal bunt, or any stage of development of the fungus *Tilletia indica* (Mitra) Mundkur, or the existence of circumstances that make it reasonable to believe that Karnal bunt is present.

Inspector. An APHIS employee or designated cooperator/collaborator authorized by the Administrator to enforce the provisions of this subpart.

Karnal bunt. A plant disease caused by the fungus *Tilletia indica* (Mitra) Mundkur.

Limited permit. A document in which an inspector affirms that a specified regulated article not eligible for a certificate is eligible for movement only to a specified destination and in accordance with conditions specified on the permit.

Mechanized cultivating equipment and mechanized harvesting equipment. Mechanized equipment used for soil tillage, including tillage attachments for farm tractors—e.g., tractors, disks, plows, harrows, planters, and subsoilers; mechanized equipment used for harvesting purposes—e.g., combines, cotton harvesters, and hay balers.

Milling products and byproducts. Products and byproducts resulting from processing wheat, durum wheat, or triticale, including animal feed, waste and debris.

Movement (moved). The act of shipping, transporting, delivering, or receiving for movement, or otherwise aiding, abetting, inducing or causing to be moved.

Person. Any association, company, corporation, firm, individual, joint stock company, partnership, society, or any other legal entity.

Soil. The loose surface material of the earth in which plants grow, in most cases consisting of disintegrated rock with an admixture of organic material.

Soil-moving equipment. Equipment used for moving or transporting soil, including, but not limited to, bulldozers, dump trucks, or road scrapers.

State. The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory, or possession of the United States.

[61 FR 52207, Oct. 4, 1996, as amended at 62 FR 23624, May 1, 1997; 62 FR 24751, May 6, 1997; 63 FR 31599, June 10, 1998; 64 FR 23752, May 4, 1999]

§ 301.89-2 Regulated articles.

The following are regulated articles:

- (a) Conveyances, including trucks, railroad cars, and other containers used to move wheat, durum wheat, or triticale;
- (b) Grain elevators/equipment/structures used for storing and handling wheat, durum wheat, and triticale;
- (c) Milling products or byproducts, except flour;
- (d) Plants, or plant parts, including grain, seed, or straw of all varieties of the following species:

Wheat: *Triticum aestivum*;
Durum wheat: *Triticum durum*; and
Triticale: *Triticum aestivum*×*Secale cereale*;

- (e) *Tilletia indica* (Mitra) Mundkur;
- (f) Root crops with soil;
- (g) Soil from areas where field crops are produced;
- (h) Manure from animals that have fed on untreated or raw wheat, durum wheat, or triticale;
- (i) Mechanized harvesting equipment used in the production of wheat, durum wheat, and triticale that test positive from Karnal bunt;
- (j) Seed conditioning equipment that has been used in the production of wheat, durum wheat, and triticale;

(k) Any other product, article or means of conveyance when:

- (1) An inspector determines that it presents a risk of spreading Karnal bunt due to its proximity to an infestation of Karnal bunt; and
- (2) The person in possession of the product, article, or means of conveyance has been notified that it is regulated under this subpart.

[61 FR 52207, Oct. 4, 1996, as amended at 63 FR 50751, Sept. 23, 1998; 65 FR 50596, Aug. 21, 2000]

§ 301.89-3 Regulated areas.

(a) The Administrator will regulate each State or each portion of a State that is infected.

(b) Less than an entire State will be listed as a regulated area only if the Administrator:

- (1)(i) Determines that the State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles listed in § 301.89-2 that are equivalent to the movement restrictions imposed by this subpart; and
- (ii) Determines that designating less than the entire State as a regulated area will prevent the spread of Karnal bunt; or

(2) Exercises his or her extraordinary emergency authority under 7 U.S.C. 150dd.

(c) The Administrator may include noninfected acreage within a regulated area due to its proximity to an infestation or inseparability from the infected locality for regulatory purposes, as determined by:

(1) Projections of the spread of Karnal bunt along the periphery of the infestation;

(2) The availability of natural habitats and host materials within the noninfected acreage that are suitable for establishment and survival of Karnal bunt; and

(3) The necessity of including uninfected acreage within the regulated area in order to establish readily identifiable boundaries.

(d) The Administrator or an inspector may temporarily designate any nonregulated area as a regulated area in accordance with the criteria specified in paragraphs (a), (b), and (c) of this section. The Administrator will give written notice of this designation to the owner or person in possession of

the nonregulated area, or, in the case of publicly owned land, to the person responsible for the management of the nonregulated area. Thereafter, the movement of any regulated article from an area temporarily designated as a regulated area is subject to this subpart. As soon as practicable, this area either will be added to the list of designated regulated areas in paragraph (f) of this section, or the Administrator will terminate the designation. The owner or person in possession of, or, in the case of publicly owned land, the person responsible for the management of, an area for which the designation is terminated will be given written notice of the termination as soon as practicable.

(e) The Administrator will classify a field or area as a regulated area when:

(1) It is a field planted with seed from a lot found to contain a bunted wheat kernel; or

(2) It is a distinct definable area that contains at least one field that was found during survey to contain a bunted wheat kernel (the distinct definable area may include an area where Karnal bunt is not known to exist but where intensive surveys are required because of the area's proximity to a field found during survey to contain a bunted kernel); or

(3) It is a distinct definable area that contains at least one field that was found during survey to contain spores consistent with Karnal bunt and has been determined to be associated with grain at a handling facility containing a bunted wheat kernel (the distinct definable area may include an area where Karnal bunt is not known to exist but where intensive surveys are required because of the area's proximity to a field that has been associated with grain at a handling facility containing a bunted kernel).

(f) The following areas or fields are designated as regulated areas (maps of the regulated areas may be obtained by contacting the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, 4700 River Road Unit 134, Riverdale, MD 20737-1236):

ARIZONA

La Paz County. (1) Beginning at the southeast corner of sec. 33, T. 5 N., R. 21 W.; then west to the Colorado River; then north along the Colorado River to the west edge of sec. 26, T. 6 N., R. 22 W.; then north to the northwest corner of sec. 26, T. 6 N., R. 22 W.; then east to the northeast corner of sec. 27, T. 6 N., R. 21 W.; then south to the southeast corner of sec. 10, T. 5 N., R. 21 W.; then west to the southwest corner of sec. 10, T. 5 N., R. 21 W.; then south to the point of beginning.

(2) Beginning at the southeast corner of sec. 6, T. 7 N., R. 20 W.; then west to the southeast corner of sec. 35, T. 7 N., R. 21 W.; then south to the southeast corner of sec. 2, T. 6 N., R. 21 W.; then west to the southeast corner of sec. 3, T. 6 N., R. 21 W.; then south to the southeast corner of sec. 15, T. 6 N., R. 21 W.; then west to the southwest corner of sec. 13, T. 6 N., R. 22 W.; then north to the northwest corner of sec. 25, T. 7 N., R. 22 W.; then east to the southwest corner of sec. 19, T. 7 N., R. 21 W.; then north to the Colorado River; then northeast along the Colorado River to the north edge of sec. 32, T. 8 N., R. 21 W.; then east to the northeast corner of sec. 31, T. 8 N., R. 20 W.; then south to the point of beginning.

Maricopa County. (1) Beginning at the southeast corner of sec. 28, T. 1 S., R. 2 E.; then west to the southwest corner of sec. 30, T. 1 S., R. 2 E.; then north to the southeast corner of sec. 24, T. 1 S., R. 1 E.; then west to the southwest corner of sec. 24, T. 1 S., R. 1 E.; then north to the northwest corner of sec. 24, T. 1 S., R. 1 E.; then west to the southwest corner of sec. 14, T. 1 S., R. 1 E.; then north to the northwest corner of sec. 14, T. 1 S., R. 1 E.; then west to the southwest corner of sec. 9, T. 1 S., R. 1 E.; then north to the northwest corner of sec. 9, T. 1 S., R. 1 E.; then west to the southwest corner of sec. 5, T. 1 S., R. 1 E.; then north to the northwest corner of sec. 5, T. 1 S., R. 1 E.; then west to the northeast corner of sec. 6, T. 1 S., R. 1 W.; then south to the southeast corner of sec. 7, T. 1 S., R. 1 W.; then west to the northeast corner of sec. 14, T. 1 S., R. 2 W.; then south to the southeast corner of sec. 14, T. 1 S., R. 2 W.; then west to the northeast corner of sec. 20, T. 1 S., R. 2 W.; then south to the southeast corner of sec. 20, T. 1 S., R. 2 W.; then west to the northeast corner of sec. 29, T. 1 S., R. 3 W.; then south to the southeast corner of sec. 29, T. 1 S., R. 3 W.; then west to the southwest corner of sec. 27, T. 1 S., R. 4 W.; then north to the northwest corner of sec. 27, T. 1 S., R. 4 W.; then west to the southwest corner of sec. 24, T. 1 S., R. 5 W.; then north to the northwest corner of sec. 24, T. 1 S., R. 5 W.; then west to the southwest corner of sec. 14, T. 1 S., R. 5 W.; then north to the northwest corner of sec. 14, T. 1 N., R. 5 W.; then east to the southwest corner of sec. 7, T. 1 N., R. 2 W.; then north

to the northwest corner of sec. 7, T. 1 N., R. 2 W.; then east to the northeast corner of sec. 7, T. 1 N., R. 2 W.; then north to the northwest corner of sec. 5, T. 1 N., R. 2 W.; then east to the northeast corner of sec. 5, T. 1 N., R. 2 W.; then north to the northwest corner of sec. 28, T. 2 N., R. 2 W.; then east to the northeast corner of sec. 28, T. 2 N., R. 2 W.; then north to the northwest corner of sec. 3, T. 3 N., R. 2 W.; then east to the northeast corner of sec. 1, T. 3 N., R. 1 W.; then south to the northwest corner of sec. 19, T. 3 N., R. 1 E.; then east to the northeast corner of sec. 23, T. 3 N., R. 1 E.; then south to the northwest corner of sec. 1, T. 2 N., R. 1 E.; then east to the northeast corner of sec. 1, T. 2 N., R. 1 E.; then south to the northwest corner of sec. 6, T. 1 N., R. 2 E.; then east to the northeast corner of sec. 4, T. 1 N., R. 2 E.; then south to the northwest corner of sec. 15, T. 1 N., R. 2 E.; then east to the northeast corner of sec. 13, T. 1 N., R. 2 E.; then south to the southeast corner of sec. 12, T. 1 S., R. 2 E.; then west to the northeast corner of sec. 16, T. 1 S., R. 2 E.; then south to the point of beginning.

(2) Beginning at the intersection of the Maricopa/Pinal County line and the southwest corner of sec. 31, T. 2 S., R. 5 E.; then north to the southeast corner of sec. 25, T. 2 S., R. 5 E.; then west to the southwest corner of sec. 25, T. 2 S., R. 5 E.; then north to the northwest corner of sec. 24, T. 2 S., R. 4 E.; then west to the southwest corner of sec. 15, T. 2 S., R. 4 E.; then north to the northwest corner of sec. 3, T. 2 S., R. 4 E.; then east to the southwest corner of sec. 35, T. 1 S., R. 4 E.; then north to the northwest corner of sec. 35, T. 1 S., R. 4 E.; then east to the northeast corner of sec. 33, T. 1 S., R. 5 E.; then north to the northwest corner of sec. 22, T. 1 S., R. 5 E.; then east to the northeast corner of sec. 19, T. 1 S., R. 6 E.; then north to the northwest corner of sec. 8, T. 1 S., R. 6 E.; then east to the southwest corner of sec. 3, T. 1 S., R. 6 E.; then north to the northwest corner of sec. 3, T. 1 S., R. 6 E.; then east to the northeast corner of sec. 2, T. 1 S., R. 6 E.; then south to the southeast corner of sec. 2, T. 1 S., R. 6 E.; then east to the northeast corner of sec. 7, T. 1 S., R. 7 E.; then south to the northwest corner of sec. 5, T. 2 S., R. 7 E.; then east to the northeast corner of sec. 3, T. 2 S., R. 7 E.; then south to the southeast corner of sec. 3, T. 2 S., R. 7 E.; then east to the intersection of the northeast corner of sec. 12, T. 2 S., R. 7 E. and the Maricopa/Pinal County line; then south along the Maricopa/Pinal County line to the southeast corner of sec. 36, T. 2 S., R. 7 E.; then east along the Maricopa/Pinal County line to the point of beginning.

(3) Beginning at the southeast corner of sec. 30, T. 6 S., R. 5 W.; then west to the northeast corner of sec. 33, T. 6 S., R. 6 W.; then south to the southeast corner of sec. 33, T. 6 S., R. 6 W.; then west to the southwest

corner of sec. 36, T. 6 S., R. 7 W.; then north to the northwest corner of sec. 36, T. 6 S., R. 7 W.; then west to the southwest corner of sec. 26, T. 6 S., R. 7 W.; then north to the northwest corner of sec. 23, T. 6 S., R. 7 W.; then west to the southeast corner of sec. 18, T. 6 S., R. 7 W.; then north to the northeast corner of sec. 6, T. 6 S., R. 7 W.; then west to the southeast corner of sec. 31, T. 5 S., R. 7 W.; then north to the northwest corner of sec. 29, T. 5 S., R. 7 W.; then east to the northwest corner of sec. 28, T. 5 S., R. 7 W.; then east to the southwest corner of sec. 22, T. 5 S., R. 7 W.; then north to the northwest corner of sec. 22, T. 5 S., R. 7 W.; then east to the southwest corner of sec. 14, T. 5 S., R. 7 W.; then north to the northwest corner of sec. 14, T. 5 S., R. 7 W.; then east to the northeast corner of sec. 14, T. 5 S., R. 6 W.; then south to the southeast corner of sec. 14, T. 5 S., R. 6 W.; then east to the northeast corner of sec. 24, T. 5 S., R. 6 W.; then south to the southeast corner of sec. 24, T. 5 S., R. 6 W.; then east to the northeast corner of sec. 30, T. 5 S., R. 5 W.; then south to the southeast corner of sec. 30, T. 5 S., R. 5 W.; then east to the northeast corner of sec. 32, T. 5 S., R. 5 W.; then south to the southeast corner of sec. 32, T. 5 S., R. 5 W.; then east to the northeast corner of sec. 5, T. 6 S., R. 5 W.; then south to the southeast corner of sec. 20, T. 6 S., R. 5 W.; then west to the northeast corner of sec. 30, T. 6 S., R. 5 W.; then south to the point of beginning.

(4) Beginning at the southeast corner of sec. 34, T. 2 N., R. 5 E.; then west to the southwest corner of sec. 31, T. 2 N., R. 5 E.; then north to the northwest corner of sec. 7, T. 2 N., R. 5 E.; then east to the northeast corner of sec. 10, T. 2 N., R. 5 E.; then south to the point of beginning.

Pinal County. (1) Beginning at the intersection of the Maricopa/Pinal County line and the northwest corner of sec. 7, T. 2 S., R. 8 E.; then east to the northeast corner of sec. 8, T. 2 S., R. 8 E.; then south to the southeast corner of sec. 8, T. 2 S., R. 8 E.; then east to the northeast corner of sec. 16, T. 2 S., R. 8 E.; then south to the southeast corner of sec. 28, T. 2 S., R. 8 E.; then west to the northeast corner of sec. 32, T. 2 S., R. 8 E.; then south to the southeast corner of sec. 32, T. 2 S., R. 8 E.; then west to the Maricopa/Pinal County line; then north along the Maricopa/Pinal County line to the point of beginning.

(2) Beginning at the intersection of the Maricopa/Pinal County line and the northeast corner of sec. 2, T. 3 S., R. 7 E.; then south to the southeast corner of sec. 2, T. 3 S., R. 7 E.; then west to the northeast corner of sec. 9, T. 3 S., R. 6 E.; then south to the southeast corner of sec. 4, T. 4 S., R. 6 E.; then west to the southwest corner of sec. 5, T. 4 S., R. 6 E.; then north to the northwest corner of sec. 5, T. 4 S., R. 6 E.; then west to the southwest corner of sec. 34, T. 3 S., R. 5 E.; then north to the northwest corner of sec.

10, T. 3 S., R. 5 E.; then west to the southwest corner of sec. 6, T. 3 S., R. 5 E.; then north to the intersection of the northwest corner of sec. 6, T. 3 S., R. 5 E. and the Maricopa/Pinal County line; then east along the Maricopa/Pinal County line to the point of beginning.

(3) Beginning at the southeast corner of sec. 5, T. 6 S., R. 4 E.; then west to the southwest corner of sec. 5, T. 6 S., R. 3 E.; then north to the northwest corner of sec. 5, T. 6 S., R. 3 E.; then west to the southwest corner of sec. 32, T. 5 S., R. 3 E.; then north to the northwest corner of sec. 32, T. 5 S., R. 3 E.; then west to the southwest corner of sec. 30, T. 5 S., R. 3 E.; then north to the southeast corner of sec. 25, T. 5 S., R. 2 E.; then west to the southwest corner of sec. 25, T. 5 S., R. 2 E.; then north to the northwest corner of sec. 25, T. 5 S., R. 2 E.; then west to the southwest corner of sec. 23, T. 5 S., R. 2 E.; then north to the northwest corner of sec. 35, T. 4 S., R. 2 E.; then east to the northeast corner of sec. 35, T. 4 S., R. 2 E.; then north to the northwest corner of sec. 25, T. 4 S., R. 2 E.; then east to the southwest corner of sec. 20, T. 4 S., R. 3 E.; then north to the northwest corner of sec. 20, T. 4 S., R. 3 E.; then east to the northeast corner of sec. 21, T. 4 S., R. 4 E.; then south to the northwest corner of sec. 34, T. 4 S., R. 4 E.; then east to the northeast corner of sec. 35, T. 4 S., R. 4 E.; then south to the northwest corner of sec. 1, T. 5 S., R. 4 E.; then east to the northeast corner of sec. 1, T. 5 S., R. 4 E.; then west to the northeast corner of sec. 12, T. 5 S., R. 4 E.; then south to the southeast corner of sec. 24, T. 5 S., R. 4 E.; then west to the southwest corner of sec. 24, T. 5 S., R. 4 E.; then south to the northeast corner of sec. 35, T. 5 S., R. 4 E.; then west to the northwest corner of sec. 35, T. 5 S., R. 4 E.; then south to the southeast corner of sec. 37, T. 5 S., R. 4 E.; then west to the northeast corner of sec. 48, T. 5 S., R. 4 E.; then south to the southeast corner of sec. 49, T. 5 S., R. 4 E.; then west to the northeast corner of sec. 5, T. 6 S., R. 4 E.; then south to the point of beginning.

(4) The following individual fields in Pinal County are regulated areas: 309021801, 309021804, 309021812, 309031304, 309033507, 309042544, 309042545, 309042601, 309042607, 309042619, 309042620, 309042621, 309050104, 309050109, 309050122, 309050207, 309050209.

CALIFORNIA

Imperial County. Beginning at the intersection of the Riverside/Imperial County line and the California/Arizona State line; then west to the northwest corner of sec. 1, T. 9 S., R. 21 E.; then south to the California/Arizona State line; then east and north along the State line to the point of beginning.

Riverside County. Beginning at the intersection of the Riverside/Imperial County line

and the California/Arizona State line; then west to the southwest corner of sec. 31, T. 8 S., R. 22 E.; then north to the northwest corner of sec. 30, T. 7 S., R. 22 E.; then north and northeast along the Palo Verde Valley agriculture area to the California/Arizona State line; then south along the State line to the point of beginning.

TEXAS

Archer County. (1) Beginning at the intersection of the line of longitude -98.5457° W. and the line of latitude 33.6656° N.; then east along the line of latitude 33.6656° N. to the line of longitude -98.4380° W.; then south along the line of longitude -98.4380° W. to the line of latitude 33.5763° N.; then west along the line of latitude 33.5763° N. to the line of longitude -98.5457° W.; then north along the line of longitude -98.5457° W. to the point of beginning.

(2) Beginning at the intersection of the Archer/Baylor County line and the line of latitude 33.4051° N.; then east along the line of latitude 33.4051° N. to the line of longitude -98.9345° W.; then north along the line of longitude -98.9345° W. to the line of latitude 33.4570° N.; then east along the line of latitude 33.4570° N. to the line of longitude -98.8227° W.; then south along the line of longitude -98.8227° W. to the Archer/Young County line; then west along the Archer/Young County line to the Archer/Baylor County line; then north along the Archer/Baylor County line to the point of beginning.

(3) Beginning at the intersection of the Archer/Young County line and the line of longitude -98.7926° W.; then north along the line of longitude -98.7926° W. to the line of latitude 33.3978° N.; then east along the line of latitude 33.3978° N. to the line of longitude -98.6870° W.; then south along the line of longitude -98.6870° W. to the Archer/Young County line; then west along the Archer/Young County line to the point of beginning.

Baylor County. (1) Beginning at the intersection of the line of longitude -99.1633° W. and the line of latitude 33.8148° N.; then east along the line of latitude 33.8148° N. to the line of longitude -99.0436° W.; then south along the line of longitude -99.0436° W. to the line of latitude 33.7143° N.; then west along the line of latitude 33.7143° N. to the line of longitude -99.1633° W.; then north along the line of longitude -99.1633° W. to the point of beginning.

(2) Beginning at the intersection of the Baylor/Knox County line and the line of latitude 33.6751° N.; then east along the line of latitude 33.6751° N. to the line of longitude -99.3831° W.; then south along the line of longitude -99.3831° W. to the line of latitude 33.6505° N.; then east along the line of latitude 33.6505° N. to the line of longitude -99.2542° W.; then south along the line of longitude -99.2542° W. to the line of latitude

33.5598° N.; then west along the line of latitude 33.5598° N. to the line of longitude -99.3139° W.; then south along the line of longitude -99.3139° W. to the line of latitude 33.4542° N.; then west along the line of latitude 33.4542° N. to the line of longitude -99.4276° W.; then north along the line of longitude -99.4276° W. to the line of latitude 33.5284° N.; then west along the line of latitude 33.5284° N. to the Baylor/Knox County line; then north along the Baylor/Knox County line to the point of beginning.

(3) Beginning at the intersection of the Baylor/Throckmorton County line and the line of longitude -99.1271° W.; then north along the line of longitude -99.1271° W. to the line of latitude 33.4445° N.; then east along the line of latitude 33.4445° N. to the line of longitude -99.0189° W.; then south along the line of longitude -99.0189° W. to the line of latitude 33.4051° N.; then east along the line of latitude 33.4051° N. to the Baylor/Archer County line; then south along the Baylor/Archer County line to the Baylor/Throckmorton County line; then west along the Baylor/Throckmorton County line to the point of beginning.

Knox County. Beginning at the intersection of the Knox/Baylor County line and the line of latitude 33.5284° N.; then west along the line of latitude 33.5284° N. to the line of longitude -99.4962° W.; then north along the line of longitude -99.4962° W. to the line of latitude 33.5802° N.; then west along the line of latitude 33.5802° N. to the line of longitude -99.4971° W.; then north along the line of longitude -99.4971° W. to the line of latitude 33.6751° N.; then east along the line of latitude 33.6751° N. to the Knox/Baylor County line; then south along the Knox/Baylor County line to the point of beginning.

McCulloch County. Beginning at the intersection of the McCulloch/San Saba County line and the line of latitude 31.2147° N.; then west along the line of latitude 31.2147° N. to the line of longitude 99.1818° W.; then north along the line of longitude 99.1818° W. to the line of latitude 31.3455° N.; then east along the line of latitude 31.3455° N. to the line of longitude 99.1860° W.; then north along the line of longitude 99.1860° W. to the line of latitude 31.4464° N.; then east along the line of latitude 31.4464° N. to the McCulloch/San Saba County line; then south along the McCulloch/San Saba County line to the point of beginning.

San Saba County. (1) Beginning at the intersection of the San Saba/Mills County line and the line of longitude -98.5851° W.; then south along the line of longitude -98.5851° W. to the line of latitude 31.1301° N.; then west along the line of latitude 31.1301° N. to the line of longitude -98.9463° W.; then north along the line of longitude -98.9463° W. to the line of latitude 31.3299° N.; then east along the line of latitude 31.3299° N. to the San Saba/Mill County line;

then south along the San Saba/Mill County line to the point of beginning.

(2) Beginning at the intersection of the San Saba/McCulloch County line and the line of latitude 31.4474° N.; then east along the line of latitude 31.4474° N. to the line of longitude -99.9922° W.; then south along the line of longitude -99.9922° W. to the line of latitude 31.2147° N.; then west along the line of latitude 31.2147° N. to the San Saba/McCulloch County line; then north along the San Saba/McCulloch County line to the point of beginning.

Throckmorton County. Beginning at the intersection of the Throckmorton/Young County line and the line of latitude 33.1810° N.; then west along the line of latitude 33.1810° N. to the line of longitude -98.9922° W.; then north along the line of longitude -98.9922° W. to the line of latitude 33.2175° N.; then west along the line of latitude 33.2175° N. to the line of longitude -99.0837° W.; then north along the line of longitude -99.0837° W. to the line of latitude 33.3073° N.; then east along the line of latitude 33.3073° N. to the line of longitude -99.0531° W.; then north along the line of longitude -99.0531° W. to the line of latitude 33.3535° N.; then west along the line of latitude 33.3535° N. to the line of longitude -99.1271° W.; then north along the line of longitude -99.1271° W. to the Throckmorton/Baylor County line; then east along the Throckmorton/Baylor County line to the Throckmorton/Young County line; then south along the Throckmorton/Young County line to the point of beginning.

Young County. (1) Beginning at the intersection of the Young/Archer County line and the line of longitude -98.8228° W.; then south along the line of longitude -98.8228° W. to the line of latitude 33.3600° N.; then west along the line of latitude 33.3600° N. to the line of longitude -98.9410° W.; then south along the line of longitude -98.9410° W. to the line of latitude 33.3001° N.; then east along the line of latitude 33.3001° N. to the line of longitude -98.8884° W.; then south along the line of longitude -98.8884° W. to the line of latitude 33.2878° N.; then east along the line of latitude 33.2878° N. to the line of longitude -98.8355° W.; then south along the line of longitude -98.8355° W. to the line of latitude 33.2552° N.; then east along the line of latitude 33.2552° N. to the line of longitude -98.7856° W.; then south along the line of longitude -98.7856° W. to the line of latitude 33.2237° N.; then east along the line of latitude 33.2237° N. to the line of longitude -98.7065° W.; then south along the line of longitude -98.7065° W. to the line of latitude 33.1329° N.; then west along the line of latitude 33.1329° N. to the line of longitude -98.8250° W.; then north along the line of longitude -98.8250° W. to the line of latitude 33.1484° N.; then west along the line of latitude 33.1484° N. to the line of longitude

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—98.9312° W.; then north along the line of longitude —98.9312° W. to the line of latitude 33.1810° N.; then west along the line of latitude 33.1810° N. to the Young/Throckmorton County line; then north along the Young/Throckmorton County line to the Young/Archer County line; then east along the Young/Archer County line to the point of beginning.

(2) Beginning at the intersection of the Young/Archer County line and the line of longitude —98.6851° W.; then south along the line of longitude —98.6851° W. to the line of latitude 33.3053° N.; then west along the line of latitude 33.3053° N. to the line of longitude —98.7906° W.; then north along the line of longitude —98.7906° W. to the line of latitude 33.3069° N.; then west along the line of latitude 33.3069° N. to the line of longitude —98.7926° W.; then north along the line of longitude —98.7926° W. to the Young/Archer County line; then east along the Young/Archer County line to the point of beginning.

[61 FR 52207, Oct. 4, 1996, as amended at 62 FR 23624, May 1, 1997; 62 FR 62505, Nov. 24, 1997; 63 FR 1, Jan. 2, 1998; 63 FR 50751, Sept. 23, 1998; 64 FR 23752, May 4, 1999; 65 FR 50596, Aug. 21, 2000; 66 FR 32210, June 14, 2001; 66 FR 37576, July 19, 2001; 66 FR 63152, Dec. 5, 2001; 67 FR 61978, Oct. 3, 2002]

§ 301.89-4 Planting.

(a) Wheat, durum wheat, and triticale may be planted in all fields within a regulated area. All wheat seed, durum wheat seed, and triticale seed that originates within a regulated area must be tested and found free from spores and bunted wheat kernels before it may be planted within a regulated area.

(b) No wheat, durum wheat, or triticale that originates within a regulated area may be used for planting outside a regulated area.

[67 FR 21161, Apr. 30, 2002]

§ 301.89-5 Movement of regulated articles from regulated areas.

(a) Any regulated article may be moved from a regulated area into or through an area that is not regulated only if moved under the following conditions:

(1) With a certificate or limited permit issued and attached in accordance with §§ 301.89-6 and 301.89-10;

(2) Without a certificate or limited permit, provided that each of the following conditions is met:

(i) The regulated article was moved into the regulated area from an area that is not regulated;

(ii) The point of origin is indicated on a waybill accompanying the regulated article;

(iii) The regulated article is moved through the regulated area without stopping, or has been stored, packed, or handled at locations approved by an inspector as not posing a risk of contamination with Karnal bunt, or has been treated in accordance with the methods and procedures prescribed in § 301.89-13 while in or moving through any regulated area; and

(iv) The article has not been combined or commingled with other articles so as to lose its individual identity;

(3) Without a certificate or limited permit, provided the regulated article is a soil sample being moved to a laboratory approved by the Administrator¹ to process, test, or analyze soil samples;

(4) Without a certificate or limited permit, provided the regulated article is straw/stalks/seed heads for decorative purposes that have been processed or manufactured prior to movement and are intended for use indoors.

(b) When an inspector has probable cause to believe a person or means of conveyance is moving a regulated article, the inspector is authorized to stop the person or means of conveyance to determine whether a regulated article is present and to inspect the regulated article. Articles found to be infected by an inspector, and articles not in compliance with the regulations in this subpart, may be seized, quarantined, treated, subjected to other remedial measures, destroyed, or otherwise disposed of. Any treatments will be in accordance with the methods and procedures prescribed in § 301.89-13.

[61 FR 52207, Oct. 4, 1996, as amended at 62 FR 23627, May 1, 1997; 63 FR 50751, Sept. 23, 1998]

¹Criteria that laboratories must meet to become approved to process, test, or analyze soil, and the list of currently approved laboratories, may be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Domestic and Emergency Operations, 4700 River Road Unit 134, Riverdale, Maryland 20737-1236.

§ 301.89-6 Issuance of a certificate or limited permit.

(a) An inspector² or person operating under a compliance agreement will issue a certificate for the movement of a regulated article outside a regulated area if he or she determines that the regulated article:

(1) Is eligible for unrestricted movement under all other applicable Federal domestic plant quarantines and regulations;

(2) Is to be moved in compliance with any conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714)³ to prevent the artificial spread of Karnal bunt; and

(3)(i) Is free of Karnal bunt infestation, based on laboratory results of testing, and history of previous infestation;

(ii) Has been grown, produced, manufactured, stored, or handled in a manner that would prevent infestation or destroy all life stages of Karnal bunt; or

(iii) Has been treated in accordance with methods and procedures prescribed in § 301.89-13.

(b) To be eligible for movement under a certificate, grain from a field within a regulated area must be tested prior to its movement from the field or before it is commingled with other grains and must be found free from bunted kernels. If bunted kernels are found, the grain will be eligible for movement only under a limited permit issued in accordance with paragraph (c) of this section. No wheat, durum wheat, or triticale moved out of a regulated area under a certificate may be used for planting outside the regulated area.

²Inspectors are assigned to local offices of APHIS, which are listed in local telephone directories. Information concerning such local offices may also be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Domestic and Emergency Operations, 4700 River Road Unit 134, Riverdale, Maryland 20737-1236, or from Karnal Bunt Project, 3658 E. Chipman Rd. Phoenix, Arizona 85040.

³An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 431 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

(c) An inspector or a person operating under a compliance agreement will issue a limited permit for the movement within or outside the regulated area of a regulated article not eligible for a certificate if the inspector determines that the regulated article:

(1) Is to be moved to a specified destination for specified handling, utilization, or processing (the destination and other conditions to be listed in the limited permit and/or compliance agreement), and this movement will not result in the artificial spread of Karnal bunt because Karnal bunt will be destroyed or the risk mitigated by the specified handling, utilization, or processing;

(2) Is to be moved in compliance with any additional conditions the Administrator may impose under section 414 of the Plant Protection Act (7 U.S.C. 7714) to prevent the artificial spread of Karnal bunt; and

(3) Is eligible for movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

(d) An inspector shall issue blank certificates and limited permits to a person operating under a compliance agreement in accordance with § 301.89-7 or authorize reproduction of the certificates or limited permits on shipping containers, or both, as requested by the person operating under the compliance agreement. These certificates and limited permits may then be completed and used, as needed, for the movement of regulated articles that have met the applicable requirements of paragraphs (a) and (b) of this section for the issuance of certificates or of paragraph (c) of this section for the issuance of limited permits.

[61 FR 52207, Oct. 4, 1996, as amended at 62 FR 23627, May 1, 1997; 63 FR 50751, Sept. 23, 1998; 64 FR 23754, May 4, 1999; 66 FR 21053, Apr. 27, 2001; 67 FR 21161, Apr. 30, 2002]

§ 301.89-7 Compliance agreements.

Persons who grow, handle, or move regulated articles may enter into a

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compliance agreement⁴ if such persons review with an inspector each provision of the compliance agreement, have facilities and equipment to carry out disinfection procedures or application of chemical materials in accordance with § 301.89-13, and meet applicable State training and certification standards under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136b). Any person who enters into a compliance agreement with APHIS must agree to comply with the provisions of this subpart and any conditions imposed under this subpart.

[61 FR 52207, Oct. 4, 1996, as amended at 62 FR 23628, May 1, 1997]

§ 301.89-8 Cancellation of a certificate, limited permit, or compliance agreement.

Any certificate, limited permit, or compliance agreement may be canceled orally or in writing by an inspector whenever the inspector determines that the holder of the certificate or limited permit, or the person who has entered into the compliance agreement, has not complied with this subpart or any conditions imposed under this subpart. If the cancellation is oral, the cancellation will become effective immediately and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances allow, but within 20 days after oral notification of the cancellation. Any person whose certificate, limited permit, or compliance agreement has been canceled may appeal the decision, in writing, within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants the Administrator to consider in deciding the appeal. A hearing may be

⁴Compliance agreements may be initiated by contacting a local office of Plant Protection and Quarantine, which are listed in telephone directories. The addresses and telephone numbers of local offices of Plant Protection and Quarantine may also be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, 4700 River Road Unit 134, Riverdale, Maryland 20737-1236, or from the Karnal Bunt Project, 3658 E. Chipman Rd., Phoenix, Arizona 85040.

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held to resolve any conflict as to any material fact. Rules of practice for the hearing will be adopted by the Administrator. As soon as practicable, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision.

§ 301.89-9 Assembly and inspection of regulated articles.

(a) Persons requiring certification or other services must request the services of an inspector⁵ at least 24 hours before the services are needed.

(b) The regulated articles must be assembled at the place and in the manner the inspector designates as necessary to comply with this subpart.

[61 FR 52207, Oct. 4, 1996, as amended at 62 FR 23628, May 1, 1997; 64 FR 29550, June 2, 1999]

§ 301.89-10 Attachment and disposition of certificates and limited permits.

(a) The consignor must ensure that the certificate or limited permit authorizing movement of a regulated article is, at all times during movement, attached to:

(1) The outside of the container encasing the regulated article;

(2) The article itself, if it is not in a container; or

(3) The consignee's copy of the accompanying waybill: Provided, that the descriptions of the regulated article on the certificate or limited permit, and on the waybill, are sufficient to identify the regulated article; and

(b) The carrier must furnish the certificate or limited permit authorizing movement of a regulated article to the consignee at the shipment's destination.

§ 301.89-11 Costs and charges.

The services of the inspector during normal business hours will be furnished without cost to persons requiring the services.

The user will be responsible for all costs and charges arising from inspection and other services provided outside of normal business hours.

§ 301.89-12 Cleaning and disinfection.

(a) Mechanized harvesting equipment that has been used to harvest host

⁵See footnote 2.

crops that test positive for Karnal bunt and seed conditioning equipment that has been used in the production of any host crops must be cleaned and disinfected in accordance with § 301.89-13(a) prior to movement from a regulated area.

(b) [Reserved]

[63 FR 50751, Sept. 23, 1998, as amended at 64 FR 23754, May 4, 1999; 65 FR 50598, Aug. 21, 2000]

§ 301.89-13 Treatments.

(a) All conveyances, mechanized harvesting equipment, seed conditioning equipment, grain elevators, and structures used for storing and handling wheat, durum wheat, or triticale required to be cleaned and disinfected under this subpart must be cleaned by removing all soil and plant debris and disinfected by one of the methods specified in paragraphs (a)(1) through (a)(4) of this section, unless a particular treatment is designated by an inspector. The treatment used must be that specified by an inspector if that treatment is deemed most effective in a given situation:

(1) Wetting all surfaces to the point of runoff with a solution of 1.5 percent sodium hypochlorite—e.g., with a solution of sodium hypochlorite mixed with water applied at the rate of 1 gallon of household chlorine bleach (5.2 percent sodium hypochlorite) mixed with 2.5 gallons of water—and letting stand for 15 minutes. The equipment or site should be thoroughly washed down after 15 minutes to minimize corrosion; or

(2) Applying steam to all surfaces until the point of runoff, and so that a critical temperature of 170 °F is reached at the point of contact;

(3) Cleaning with a solution of hot water and detergent, applied under pressure of at least 30 pounds per square inch, at a minimum temperature of 180 °F; or

(4) Fumigating with methyl bromide at the dosage of 15 pounds/1000 cubic feet for 96 hours.

(b) Soil must be wet to a depth of 1 inch by water (irrigation or rain) just prior to treatment and must be treated by fumigation with methyl bromide at the dosage of 15 pounds/1000 cubic feet for 96 hours.

(c) Millfeed must be treated with a moist heat treatment of 170 °F for at least 1 minute if the millfeed resulted from the milling of wheat, durum wheat, or triticale that tested positive for Karnal bunt.

(d) [Reserved]

(e) Seed used for germplasm or for research purposes must be treated with a 1.5 percent aqueous solution of sodium hypochlorite (=30 percent household bleach) containing 2 ml. of Tween 20™ per liter agitated for 10 minutes at room temperature followed by a 15-minute rinse with clean, running water and then by drying, and either:

(1) With 6.8 fl. oz. of Carboxin thiram (10 percent + 10 percent, 0.91 + 0.91 lb. ai./gal.) flowable liquid and 3 fluid ounces of pentachloronitrobenzene (2.23 lb. ai./gal.) per 100 pounds of seed; or

(2) With 4.0 fluid ounces of Carboxin thiram (1.67 + 1.67 lb. ai./gal.) flowable liquid and 3 fluid ounces of pentachloronitrobenzene (2.23 lb. ai./gal.) per 100 pounds of seed.

[61 FR 52207, Oct. 4, 1996, as amended at 62 FR 64265, Dec. 5, 1997; 63 FR 50751, Sept. 23, 1998; 64 FR 23754, May 4, 1999; 67 FR 21161, Apr. 30, 2002]

§ 301.89-14 Compensation for the 1995-1996 crop season.

The following individuals are eligible to receive compensation from the United States Department of Agriculture (USDA) for the 1995-1996 crop season to mitigate losses or expenses incurred because of the Karnal bunt regulations and emergency actions, as follows:

(a) *Growers who have destroyed crops.* Growers in New Mexico and Texas who have destroyed crops of wheat pursuant to an Emergency Action Notification (PPQ Form 523) issued by an inspector are eligible to be compensated at the rate of \$300 per acre of destroyed crop. Compensation payments will be issued by the Farm Service Agency (FSA). To claim compensation, the grower must complete and submit to a local FSA county office whichever of the following three forms are applicable, as determined by FSA: FSA Form 574, FSA Form 578, and FCI Form 73. The forms will be furnished by FSA. Claims for compensation must be received by

FSA on or before May 31, 1997. The Administrator may extend this deadline, upon request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation on or before May 31, 1997.

(b) *Growers and handlers who sell nonpropagative wheat.* Growers and handlers in a State where the Secretary has declared an extraordinary emergency, and who sell nonpropagative wheat grown in the regulated area or in an area for which an Emergency Action Notification (PPQ Form 523) has been issued in accordance with § 301.89-3(d), are eligible to be compensated for the loss in value of their wheat due to the Karnal bunt regulations, as follows:

(1) *Growers who sell nonpropagative wheat.* Growers are eligible to be compensated for nonpropagative 1995-1996 crop season wheat and for nonpropagative wheat inventories in their possession that were unsold as of March 1, 1996, as described in paragraphs (b)(1)(i), (b)(1)(ii), and (b)(1)(iii) of this section. However, compensation will not exceed \$2.50 per bushel under any circumstances.

(i) If the wheat was grown under contract and a price was determined in the contract before March 1, 1996, compensation will equal the contracted price minus the higher of either the salvage value, as described in paragraph (b)(3) of this section, or the actual price received by the grower.

(ii) If the wheat was grown under contract and a price was determined in the contract on or after March 1, 1996, and on or before August 1, 1996, compensation will equal the higher of either the contract price or the estimated market price for the relevant class of wheat (meaning type of wheat, such as durum or hard red winter) minus the higher of either the salvage value, as described in paragraph (b)(3) of this section, or the actual price received by the grower. The estimated market price will be calculated by APHIS for each class of wheat, taking into account the prices offered by relevant terminal markets (animal feed, milling, or export) for the period between May 1 and June 30, 1996, with ad-

justments for transportation and other handling costs.

(iii) If the wheat was not grown under contract or a price was determined in the contract after August 1, 1996, compensation will equal the estimated market price for the relevant class of wheat (meaning type of wheat, such as durum or hard red winter) minus the higher of either the salvage value, as described in paragraph (b)(3) of this section, or the actual price received by the grower. The estimated market price will be calculated by APHIS for each class of wheat, taking into account the prices offered by relevant terminal markets (animal feed, milling, or export) for the period between May 1 and June 30, 1996, with adjustments for transportation and other handling costs.

(2) *Handlers who sell nonpropagative wheat.* Handlers are eligible to be compensated for nonpropagative 1995-1996 crop season wheat and for nonpropagative wheat inventories in their possession that were unsold as of March 1, 1996, only under the circumstances described in paragraphs (b)(2)(i), (b)(2)(ii), and (b)(2)(iii) of this section. Compensation for the circumstances in paragraphs (b)(2)(i) and (b)(2)(ii) will equal the estimated market price for the relevant class of wheat (meaning type of wheat, such as durum or hard red winter) minus the salvage value, as described in paragraph (b)(3) of this section. Compensation for the circumstance in paragraph (b)(2)(iii) will equal the estimated market price for the relevant class of wheat (meaning type of wheat, such as durum or hard red winter) minus the higher of either the salvage value, as described in paragraph (b)(3) of this section, or the actual price received by the handler. The estimated market price will be calculated by APHIS for each class of wheat, taking into account the prices offered by relevant terminal markets (animal feed, milling, or export) for the period between May 1 and June 30, 1996, with adjustments for transportation and other handling costs. However, compensation will not exceed \$2.50 per bushel under any circumstances.

(i) Handlers who honor contracts by paying the grower full contract price on wheat grown for nonpropagative

purposes in the regulated area that was tested by APHIS and found positive for Karnal bunt;

(ii) Handlers who purchase contracted or noncontracted wheat grown for nonpropagative purposes in the regulated area that was tested by APHIS and found negative for Karnal bunt prior to purchase but that was tested by APHIS and found positive for Karnal bunt after purchase; or

(iii) Except as explained in this paragraph, handlers who honor contracts by paying the grower or another handler full contract price on nonpropagative wheat grown in the regulated area that was tested by APHIS and found negative for Karnal bunt if a price was determined in the contract before March 1, 1996. Handlers who had contracted to sell the wheat at a price determined in the contract before March 1, 1996, and who received the full contract price, are not eligible for compensation.

(3) *Salvage value.* Salvage values will be as follows:

(i) If the wheat is positive for Karnal bunt and is sold for use as animal feed, salvage value equals \$6.00 per hundred-weight or \$3.60 per bushel for all classes of wheat.

(ii) If the wheat is positive for Karnal bunt and is sold for a use other than animal feed, salvage value equals whichever is higher of the following: the average price paid in the region of the regulated area where the wheat is sold for the relevant class of wheat (meaning type of wheat, such as durum or hard red winter) for the period between May 1 and June 30, 1996; or, \$3.60 per bushel.

(iii) If the wheat is negative for Karnal bunt and is sold for any use, salvage value equals whichever is higher of the following: the average price paid in the region of the regulated area where the wheat is sold for the relevant class of wheat (meaning type of wheat, such as durum or hard red winter) for the period between May 1 and June 30, 1996; or, \$3.60 per bushel.

(4) *To claim compensation.* Compensation payments will be issued by the Farm Service Agency (FSA). Claims for compensation must be received by FSA on or before May 31, 1997. The Administrator may extend this deadline, upon request in specific cases, when

unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation on or before May 31, 1997. To claim compensation, a grower or handler must complete and submit to the local FSA county office the following documents:

(i) *Both growers and handlers.* A grower or handler must submit whichever of the following three forms are applicable, as determined by FSA: FSA Form 574, FSA Form 578, and FCI Form 73. A grower or a handler must also submit a copy of the receipt for the final sale of the wheat, showing the intended use for which the wheat was sold, and a copy of the Karnal bunt certificate issued by APHIS that shows the Karnal bunt test results.

(ii) *Growers.* In addition to the documents required in paragraph (b)(4)(i), growers must submit a copy of the contract the grower has for the wheat, if the wheat was under contract; and a copy of the receipt for the final sale of the wheat, showing the intended use for which the wheat was sold, total bushels sold, and the total amount paid to the grower by the handler.

(iii) *Handlers.* In addition to the documents required in paragraph (b)(4)(i), handlers must submit a copy of the contract the handler had with the grower for the wheat, if the wheat was under contract; a copy of the receipt for the purchase of the wheat from the grower or handler, showing the total bushels purchased and the amount the handler paid for the wheat; and a copy of the receipt for the final sale of the wheat, showing the intended use for which the wheat was sold. Handlers who had contracted to sell the wheat at a price determined in the contract before March 1, 1996, must submit a copy of the contract for the sale of the wheat.

(c) *Nonpropagative wheat that is not sold.* If a grower or handler of nonpropagative wheat grown in the regulated area in a State where the Secretary has declared an extraordinary emergency is not able to or elects not to sell their wheat, they will be eligible to receive compensation at the rate of \$2.50 per bushel. Compensation will only be paid if the grower or handler has destroyed the wheat by burying it in a sanitary landfill or other site that

has been approved by APHIS. Compensation claims will be issued by the Farm Service Agency (FSA). To claim compensation, the grower or handler must complete and submit to the local FSA county office whichever of the following three forms are applicable, as determined by FSA: FSA Form 574, FSA Form 578, and FCI Form 73. In addition, the grower or handler must submit verification of how much wheat was buried, in the form of a receipt from the sanitary landfill or verification signed by an APHIS inspector. Claims for compensation must be received by FSA on or before May 31, 1997. The Administrator may extend this deadline, upon request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation on or before May 31, 1997.

(d) *Growers and seed companies that sold wheat seed.* Growers of and seed companies with certified wheat seed or wheat grown with the intent of producing certified wheat seed are eligible for compensation for the loss in value of their seed, in accordance with this section, if the seed was grown in a State where the Secretary has declared an extraordinary emergency, and if the seed was grown in an area of that State that was regulated for Karnal bunt or under Emergency Action Notification (PPQ Form 523) for Karnal bunt during the 1995-1996 crop season.

(1) *Growers who sold wheat seed under contract.* Growers who sold 1995-1996 crop season certified wheat seed or 1995-1996 crop season wheat grown with the intent of producing certified wheat seed are eligible to receive compensation as described in paragraphs (d)(1)(i) and (d)(1)(ii) of this section if they sold the wheat under contract to a seed company. However, compensation will not exceed \$2.80 per bushel under any circumstances.

(i) If the wheat was grown under contract and a price was determined in the contract on or before March 1, 1996, and the contract price was not honored by the seed company, the compensation rate will equal the contract price (CP), including the seed premium if specified in the contract, minus the higher of either the salvage value (SV), as described in paragraph (d)(6) of this sec-

tion, plus the actual seed premium received by the grower (SP)(actual), or the actual price received by the grower (AP), including any seed premium specified on the receipt for the final sale of the wheat. If the actual seed premium received by the grower is not specified on the receipt for the final sale of the wheat, the seed premium will be set at \$.30 for the compensation calculation. In each case, the amount of the actual price or the salvage value of the wheat seed will include the value of any proceeds accrued through insurance claims, judgments, or from any other source. The equation for this compensation is: Compensation rate = CP—higher of [SV + (SP(actual) or \$.30) or [AP].

(ii) If the wheat was grown under contract and a price was determined in the contract after March 1, 1996, the compensation rate will equal the estimated market price for grain (EMP) plus the seed premium if specified in the contract (SP)(contract) minus the higher of either the salvage value (SV), as described in paragraph (d)(6) of this section, plus the actual seed premium received by the grower (SP)(actual), or the actual price received by the grower (AP), including any seed premium specified on the receipt for the final sale of the wheat. If a seed premium is not specified in the contract or on the receipt for the final sale of the wheat, the seed premium that is added to the estimated market price (EMP) and the seed premium that is added to the salvage value (SV) will be set at \$.30. In each case, the amount of the actual price or the salvage value of the wheat seed will include the value of any proceeds accrued through insurance claims, judgments, or from any other source. The equation for this compensation is: Compensation rate = [EMP + (SP(contract) or \$.30)]—higher of [SV + (SP(actual) or \$.30)] or [AP]. The estimated market price will be calculated by APHIS for each class of wheat, taking into account the prices offered by relevant terminal markets (animal feed, milling, or export) for the period between May 1 and June 30, 1996, with adjustments for transportation and other handling costs.

(2) *Growers who sold wheat seed for nonpropagative purposes.* Growers with

1995-1996 crop season certified wheat seed or 1995-1996 crop season wheat grown with the intent of producing certified wheat seed are eligible to receive compensation in accordance with paragraphs (d)(2)(i) and (d)(2)(ii) of this section if they sold the wheat for non-propagative purposes. However, compensation will not exceed \$2.80 per bushel under any circumstances.

(i) If the grower has not claimed compensation under paragraph (b) of this section, the compensation rate will equal the estimated market price for grain (EMP) minus the actual price received by the grower (AP), plus the seed premium specified in the contract the grower had with a seed company (SP). If a seed premium is not specified in the contract, SP will equal \$.30. In each case, the amount of the actual price of the wheat seed will include the value of any proceeds accrued through insurance claims, judgments, or from any other source. The equation for this compensation is: Compensation rate = (EMP - AP) + (SP or \$.30). Growers who claim compensation under this paragraph may not claim compensation under paragraph (b) of this section.

(ii) If the grower has claimed compensation under paragraph (b) of this section, the compensation rate will equal the premium specified in the contract the grower had with a seed company. If no seed premium is specified in the contract, compensation will equal \$.30 per bushel.

(3) *Seed companies that sold wheat seed for nonpropagative purposes and that have not claimed compensation.* Seed companies with 1995-1996 crop season certified wheat seed or 1995-1996 crop season wheat grown with the intent of producing certified wheat seed, and seed companies with certified wheat seed inventories in their possession that were unsold as of March 1, 1996, are eligible to receive compensation as described in paragraphs (d)(3)(i) and (d)(3)(ii) of this section if the wheat seed was sold for nonpropagative purposes and if the seed company has not claimed compensation under paragraph (b) of this section. Seed companies that claim compensation under paragraph (d)(3)(i) or (d)(3)(ii) of this section may not claim compensation under paragraph (b) of this section.

(i) If the wheat was grown in the 1995-1996 crop season, was under contract, and the seed company honored the contract by paying the grower the full contract price, including the seed premium if a seed premium is specified in the contract, the compensation rate will equal the estimated market price for grain (EMP) plus the seed margin (SM) minus the higher of either the actual price received by the seed company (AP) or the salvage value (SV), as described in paragraph (d)(6) of this section. The equation for this compensation is: Compensation rate = EMP + SM - higher of AP or SV. The seed margin is \$4.50 per bushel for private variety seed and \$2.40 per bushel for public variety seed. In each case, the amount of the actual price or the salvage value of the wheat seed will include the value of any proceeds accrued through insurance claims, judgments, or from any other source. However, compensation will not exceed \$7.00 per bushel for private variety seed and \$4.90 per bushel for public variety seed under any circumstances.

(ii) If a seed company had wheat inventories from past crop seasons that were unsold as of March 1, 1996, the compensation rate will equal the estimated market price for grain (EMP) plus the seed margin (SM) minus the higher of either the actual price received by the seed company (AP) or the salvage value (SV), as described in paragraph (d)(6) of this section. The equation for this compensation is: Compensation rate = EMP + SM - higher of AP or SV. The seed margin is \$4.50 per bushel for private variety seed and \$2.40 per bushel for public variety seed. In each case, the amount of the actual price or the salvage value of the wheat seed will include the value of any proceeds accrued through insurance claims, judgments, or from any other source. However, compensation will not exceed \$7.00 per bushel for private variety seed and \$4.90 per bushel for public variety seed under any circumstances.

(4) *Seed companies that sold wheat seed for nonpropagative purposes and that have claimed compensation.* Seed companies with 1995-1996 crop season certified wheat seed or 1995-1996 crop season

wheat grown with the intent of producing certified wheat seed, and seed companies with certified wheat seed inventories in their possession that were unsold as of March 1, 1996, are eligible to receive compensation as described in this paragraph if the wheat seed was sold for nonpropagative purposes and if the seed company has claimed compensation under paragraph (b) of this section. In addition, for claims on 1995-1996 crop season wheat, the wheat must have been grown under contract and the seed company must have honored the contract by paying the grower the full contract price, including the seed premium if a seed premium is specified in the contract. The compensation rate will equal the seed margin. The seed margin is \$4.50 per bushel for private variety seed and \$2.40 per bushel for public variety seed.

(5) *Seed companies that sold wheat seed for propagative purposes.* Seed companies with 1995-1996 crop season certified wheat seed or 1995-1996 crop season wheat grown with the intent of producing certified wheat seed, and seed companies with certified wheat seed inventories in their possession that were unsold as of March 1, 1996, are eligible to receive compensation as described in this paragraph if the wheat seed was sold for propagative purposes. In addition, for claims on 1995-1996 crop season wheat, the wheat must have been grown under contract and the seed company must have honored the contract by paying the grower the full contract price, including the seed premium if a seed premium is specified in the contract. The compensation rate will equal the estimated market price for grain (EMP) plus the seed margin (SM) minus the higher of either the actual price received by the seed company (AP) or the salvage value (SV), as described in paragraph (d)(6) of this section. In each case, the amount of the actual price or the salvage value of the wheat seed will include the value of any proceeds accrued through insurance claims, judgments, or from any other source. The equation for this compensation is: Compensation rate = EMP + SM - higher of AP or SV. The seed margin is \$4.50 per bushel for private variety seed and \$2.40 per bushel for public variety seed. However, com-

pensation will not exceed \$7.00 per bushel for private variety seed and \$4.90 per bushel for public variety seed under any circumstances.

(6) *Salvage value.* Salvage values will be determined as follows:

(i) If the wheat is positive for Karnal bunt and is sold for use as animal feed, salvage value equals \$6.00 per hundred-weight or \$3.60 per bushel for all classes of wheat.

(ii) If the wheat is positive for Karnal bunt and is sold for a use other than animal feed, salvage value equals whichever is higher of the following: the average price paid in the region of the regulated areas where the wheat is sold for the relevant class of wheat (meaning type of wheat, such as durum or hard red winter) for the period between May 1 and June 30, 1996; or, \$3.60 per bushel.

(iii) If the wheat is negative for Karnal bunt and is sold for any use, salvage value equals whichever is higher of the following: the average price paid in the region of the regulated areas where the wheat is sold for the relevant class of wheat (meaning type of wheat, such as durum or hard red winter) for the period between May 1 and June 30, 1996; or, \$3.60 per bushel.

(7) *To claim compensation.* Compensation payments for claims made under paragraph (d) of this section will be issued by the Farm Service Agency (FSA). Claims for compensation must be received by FSA on or before April 22, 1998. The Administrator may extend this deadline, upon request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation on or before that date. To claim compensation, a grower or seed company must submit to the local FSA county office all of the following that apply:

(i) The grower or seed company must submit a Karnal Bunt Compensation Claim form, provided by FSA;

(ii) The grower or seed company must submit a copy of the receipt for the final sale of the wheat, showing the intended use for which the wheat was sold, total bushels sold, and the total price received by the grower or seed company;

(iii) The grower or seed company must submit verification as to the actual (not estimated) weight of the wheat for which compensation is being claimed (such as a copy of a facility weigh ticket, or other verification);

(iv) The grower or seed company must submit documentation showing that the wheat is either certified seed or was grown with the intention of producing certified seed (this documentation may include one or more of the following types of documents: an application to the State seed certification agency for field inspection; a bulk sale certificate; certification tags or labels issued by the State seed certification agency; or a document issued by the State seed certification agency verifying that the wheat is certified seed);

(v) For claims on 1995-1996 crop season wheat, the grower or seed company must submit a copy of the contract under which the wheat was grown. Seed companies claiming compensation on seed inventories that were in their possession as of March 1, 1996, do not have to submit a copy of the contract under which the wheat was grown;

(vi) A seed company that is claiming compensation for seed inventories must certify to FSA that the wheat seed was in the seed company's possession as of March 1, 1996;

(vii) The grower or seed company must submit a copy of the Karnal bunt certificate issued by APHIS that shows the Karnal bunt test results; *provided that*, if a grower or seed company moved its wheat only within the regulated area, and therefore, does not have a corresponding Karnal bunt certificate for the wheat for which compensation is being claimed, a limited permit stating that the wheat was positive for Karnal bunt will be accepted in lieu of a Karnal bunt certificate. Any wheat that was moved only within the regulated area and that was not moved under a limited permit will be considered negative for Karnal bunt;

(viii) If the wheat was grown in an area that is not a regulated area, but for which an Emergency Action Notification (PPQ Form 523) (EAN) for Karnal bunt has been issued, the grower or seed company must submit a copy of the EAN.

(e) *Other compensation for seed companies.* Seed companies are also eligible to receive compensation under the following circumstance: If a seed company has 1995-1996 crop season certified wheat seed, or 1995-1996 crop season wheat grown with the intent of producing certified wheat seed, that cannot be sold for use as grain or animal feed because it was previously cleaned, treated, and bagged, the compensation rate will equal \$9.40 per bushel for private variety seed and \$7.30 per bushel for public variety seed. Compensation will only be paid if the seed company has destroyed the wheat by burying it in a sanitary landfill or other site that has been approved by APHIS. The compensation will be issued by the Farm Service Agency (FSA). Claims for compensation must be received by FSA on or before April 22, 1998. The Administrator may extend this deadline, upon request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation on or before that date. To claim compensation, a seed company must submit to the local FSA county office all of the following that apply:

(1) The seed company must submit a Karnal Bunt Compensation Claim form, provided by FSA;

(2) The seed company must submit verification of how much wheat was buried, in the form of a receipt from the sanitary landfill or verification signed by an APHIS inspector;

(3) The seed company must submit documentation showing that the wheat is either certified seed or was grown with the intention of producing certified seed (this documentation may include one or more of the following types of documents: an application to the State seed certification agency for field inspection; a bulk sale certificate; certification tags or labels issued by the State seed certification agency; or a document issued by the State seed certification agency verifying that the wheat is certified seed);

(4) For claims on 1995-1996 crop season wheat that was buried, the seed company must submit a copy of the contract under which the wheat was grown. Seed companies claiming compensation on buried seed inventories

that were in their possession as of March 1, 1996, do not have to submit a copy of the contract under which the wheat was grown;

(5) A seed company that is claiming compensation for seed inventories that were buried must certify to FSA that the wheat seed was in the seed company's possession as of March 1, 1996;

(6) If the wheat was grown in an area that is not a regulated area, but for which an Emergency Action Notification (PPQ Form 523)(EAN) for Karnal bunt has been issued, the seed company must submit a copy of the EAN.

(f) *Decontamination of grain storage facilities.* Owners of grain storage facilities that are in States where the Secretary has declared an extraordinary emergency, and who have decontaminated their grain storage facilities pursuant to an Emergency Action Notification (PPQ Form 523) issued by an inspector, are eligible to be compensated, on a one time only basis for each facility and each covered crop year wheat, for up to 50 percent of the cost of decontamination. However, compensation will not exceed \$20,000 per grain storage facility (as defined in §301.89-1). General clean-up, repair, and refurbishment costs are excluded from compensation. Compensation payments will be issued by APHIS. To claim compensation, the owner of the grain storage facility must submit to an inspector records demonstrating that decontamination was performed on all structures, conveyances, or materials ordered to be decontaminated by the Emergency Action Notification on the facility. The records must include a copy of the Emergency Action Notification, contracts with individuals or companies hired to perform the decontamination, receipts for equipment and materials purchased to perform the decontamination, time sheets for employees of the grain storage facility who performed activities connected to the decontamination, and any other documentation that helps show the cost to the owner and that decontamination has been completed. Claims for compensation must be received by APHIS on or before May 31, 1997. The Administrator may extend this deadline, upon request in specific cases, when unusual and unforeseen cir-

cumstances occur which prevent or hinder a claimant from requesting compensation on or before May 31, 1997.

(g) *Flour millers.* Flour millers who, in accordance with a compliance agreement with APHIS, heat-treat millfeed made from wheat produced in regulated areas that require such treatment are eligible to be compensated at the rate of \$35.00 per short ton of millfeed. The amount of millfeed compensated will be calculated by multiplying the weight of wheat from the regulated area received by the miller by 25 percent (the average percent of millfeed derived from a short ton of grain). Compensation payments will be issued by APHIS. To claim compensation, the miller must submit to an inspector verification as to the actual (not estimated) weight of the wheat (such as a copy of the limited permit under which the wheat was moved to the mill or a copy of the bill of lading for the wheat, if the actual weight appears on those documents, or other verification). Flour millers must also submit verification that the millfeed was heat treated (such as a copy of the limited permit under which the wheat was moved to a treatment facility and a copy of the bill of lading accompanying that movement; or a copy of PPQ Form 700 (which includes certification of processing) signed by the inspector who monitors the mill). Claims for compensation must be received by APHIS on or before May 31, 1997. The Administrator may extend this deadline, upon request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation on or before May 31, 1997.

(h) *National Karnal Bunt Survey participants.* If a grain storage facility participating in the National Karnal Bunt Survey tests positive for Karnal bunt spores, the facility will be regulated and may be ordered decontaminated pursuant to an Emergency Action Notification (PPQ Form 523) issued by an inspector. If a Declaration of Extraordinary Emergency has been declared for the State in which the grain storage facility is located, the owner of the grain storage facility will be eligible for compensation as follows:

(1) *Loss in value of positive wheat.* The owner of the grain storage facility will be compensated for the loss in value of positive wheat. Compensation will equal the estimated market price for the relevant class of wheat minus the salvage value, as described in paragraph (b)(3) of this section. The estimated market price will be calculated by APHIS for each class of wheat, taking into account the prices offered by relevant terminal markets (animal feed, milling, or export) for the period between October 1 and November 30, 1996, with adjustments for transportation and other handling costs. However, compensation will not exceed \$2.50 per bushel under any circumstances. Compensation payments for loss in value of wheat will be issued by the Farm Service Agency (FSA). To claim compensation, the owner of the facility must submit to the local FSA office a copy of the Emergency Action Notification under which the facility is or was quarantined and verification as to the actual (not estimated) weight of the wheat (such as a copy of the limited permit under which the wheat was moved to a mill or a copy of the bill of lading for the wheat, if the actual weight appears on those documents, or other verification). Claims for compensation must be received by FSA on or before May 31, 1997. The Administrator may extend this deadline, upon request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation on or before May 31, 1997.

(2) *Decontamination of grain storage facilities.* The owner of the facility will be compensated on a one time only basis for each grain storage facility and each covered crop year wheat for the direct costs of decontamination of the facility at the same rate described under paragraph (f) of this section (up to 50 per cent of the direct costs of decontamination, not to exceed \$20,000 per grain storage facility). Compensation payments for decontamination of grain storage facilities will be issued by APHIS, and claims for compensation must be submitted in accordance with the provisions in paragraph (f) of this section. Claims for compensation must be received by APHIS on or before May

31, 1997. The Administrator may extend this deadline, upon request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation on or before May 31, 1997.

(i) *Wheat straw producers.* Producers of wheat straw (either growers who bale their own wheat straw or individuals contracted by growers to remove wheat straw from the growers' fields) made from wheat grown in the regulated areas in the 1995-1996 crop season are eligible to receive compensation on a one-time-only basis at the rate of \$1.00 per 80-pound bale or \$1.25 per hundredweight. Producers are eligible for compensation regardless of whether or not the straw is sold, but the straw must have been produced under contract. Compensation payments will be issued by the Farm Service Agency (FSA). To claim compensation, a wheat straw producer must submit a Karnal Bunt Compensation Claim form, provided by FSA, and a copy of the contract under which the wheat straw was produced to the local FSA county office. Claims for compensation must be received by FSA on or before April 22, 1998. The Administrator may extend this deadline, upon request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation prior to that date.

[62 FR 24751, May 6, 1997, as amended at 63 FR 1329, Jan. 9, 1998]

§ 301.89-15 Compensation for growers, handlers, and seed companies in the 1999-2000 and subsequent crop seasons.

Growers, handlers, and seed companies are eligible to receive compensation from the United States Department of Agriculture (USDA) for the 1999-2000 and subsequent crop seasons to mitigate losses or expenses incurred because of the Karnal bunt regulations and emergency actions, as follows:

(a) *Growers, handlers, and seed companies in areas under first regulated crop season.* Growers, handlers, and seed companies are eligible to receive compensation for the loss in value of their wheat in accordance with paragraphs (a)(1) and (a)(2) of this section if: The wheat was grown in a State where the

Secretary has declared an extraordinary emergency; and the wheat was grown in an area of that State that became regulated for Karnal bunt after the crop was planted, or for which an Emergency Action Notification (PPQ Form 523) was issued after the crop was planted; and the wheat was grown in an area that remained regulated or under Emergency Action Notification at the time the wheat was sold. Growers and handlers of wheat grown in Oklahoma during the 2000-2001 growing season are eligible to receive compensation if the wheat was commingled in storage with wheat that meets the above requirements of this paragraph. Growers, handlers, and seed companies in areas under the first regulated crop season are eligible for compensation for 1999-2000 or subsequent crop season wheat and for wheat inventories in their possession that were unsold at the time the area became regulated. The compensation provided in this paragraph is for wheat grain, certified wheat seed, wheat held back from harvest by a grower in the 2000-2001 growing season for use as seed in the next growing season, and wheat grown with the intention of producing certified wheat seed.

(1) *Growers.* Growers of wheat in an area under the first regulated crop season, who sell wheat that was tested by APHIS and found positive for Karnal bunt prior to sale, or that was tested by APHIS and found positive for Karnal bunt after sale and the price received by the grower is contingent on the test results, are eligible to receive compensation as described in paragraphs (a)(1)(i) and (a)(1)(ii) of this section. However, compensation for positive-testing wheat will not exceed \$1.80 per bushel under any circumstances.

(i) If the wheat was grown under contract and a price was determined in the contract before the area where the wheat was grown became regulated, compensation will equal the contract price minus the actual price received by the grower.

(ii) If the wheat was not grown under contract or a price was determined in the contract after the area where the wheat was grown became regulated, compensation will equal the estimated market price for the relevant class of wheat (meaning type of wheat, such as

durum or hard red winter) minus the actual price received by the grower. The estimated market price will be calculated by APHIS for each class of wheat, taking into account the prices offered by relevant terminal markets (animal feed, milling, or export) during the harvest months for the area, with adjustments for transportation and other handling costs. Separate estimated market prices will be calculated for certified wheat seed and wheat grown with the intention of producing certified wheat seed, and wheat grain.

(2) *Handlers and seed companies.* Handlers and seed companies who sell wheat grown in an area under the first regulated crop season are eligible to receive compensation only if the wheat was not tested by APHIS prior to purchase by the handler or seed company, but was tested by APHIS and found positive for Karnal bunt after purchase by the handler or seed company, as long as the price to be paid is not contingent on the test results. Compensation will equal the estimated market price for the relevant class of wheat (meaning type of wheat, such as durum or hard red winter) minus the actual price received by the handler or seed company. The estimated market price will be calculated by APHIS for each class of wheat, taking into account the prices offered by relevant terminal markets (animal feed, milling, or export) during the harvest months for the area, with adjustments for transportation and other handling costs. Separate estimated market prices will be calculated for certified wheat seed and wheat grown with the intention of producing certified wheat seed, and wheat grain. However, compensation will not exceed \$1.80 per bushel under any circumstances.

(b) *Growers, handlers, and seed companies in previously regulated areas.* For the 1999-2000 crop season and the 2000-2001 crop season only, growers, handlers, and seed companies are eligible to receive compensation for the loss in value of their wheat in accordance with paragraphs (b)(1) and (b)(2) of this section if: The wheat was grown in a State where the Secretary has declared an extraordinary emergency; and the wheat was grown in an area of that State that became regulated for Karnal

bunt before the crop was planted, or for which an Emergency Action Notification (PPQ Form 523) was issued before the crop was planted; and the wheat was grown in an area that remained regulated or under Emergency Action Notification at the time the wheat was sold. Growers, handlers, and seed companies in previously regulated areas will not be eligible for compensation for wheat from the 2001-2002 and subsequent crop seasons; except that, for growers or handlers of wheat harvested in any field in the Texas counties of Archer, Baylor, Throckmorton, and Young during the 2000-2001 crop season that has not been found to contain a bunted wheat kernel, this requirement applies to compensation for wheat from the 2002-2003 and subsequent crop seasons. The compensation provided in this paragraph is for wheat grain, certified wheat seed, and wheat grown with the intention of producing certified wheat seed.

(1) *Growers.* Growers of wheat in a previously regulated area who sell wheat that was tested by APHIS and found positive for Karnal bunt prior to sale, or that was tested by APHIS and found positive for Karnal bunt after sale and the price received by the grower is contingent on the test results, are eligible to receive compensation at the rate of \$.60 per bushel of positive testing wheat.

(2) *Handlers and seed companies.* Handlers and seed companies who sell wheat grown in a previously regulated area are eligible to receive compensation only if the wheat was not tested by APHIS prior to purchase by the handler, but was tested by APHIS and found positive for Karnal bunt after purchase by the handler or seed company, as long as the price to be paid by the handler or seed company is not contingent on the test results. Compensation will be at the rate of \$.60 per bushel of positive testing wheat.

(c) *To claim compensation.* Compensation payments to growers, handlers, and seed companies under paragraphs (a) and (b) of this section will be issued by the Farm Service Agency (FSA). Claims for compensation for the 1999-2000 crop season must be received by FSA on or before December 4, 2001. Claims for compensation for subse-

quent crop seasons must be received by FSA on or before March 1 of the year following that crop season. The Administrator may extend the deadline, upon request in specific cases, when unusual and unforeseen circumstances occur that prevent or hinder a claimant from requesting compensation on or before these dates. To claim compensation, a grower, handler, or seed company must complete and submit to the local FSA county office the following documents:

(1) *Growers, handlers, and seed companies.* A grower, handler, or seed company must submit a Karnal Bunt Compensation Claim form, provided by FSA. If the wheat was grown in an area that is not a regulated area, but for which an Emergency Action Notification (PPQ Form 523) (EAN) has been issued, the grower, handler, or seed company must submit a copy of the EAN. Growers, handlers, and seed companies must also submit a copy of the Karnal bunt certificate issued by APHIS that shows the Karnal bunt test results, and verification as to the actual (not estimated) weight of the wheat that tested positive (such as a copy of a facility weigh ticket, or other verification). For compensation claims for wheat seed, a grower or seed company must submit documentation showing that the wheat is either certified seed or was grown with the intention of producing certified seed (this documentation may include one or more of the following types of documents: an application to the State seed certification agency for field inspection; a bulk sale certificate; certification tags or labels issued by the State seed certification agency; or a document issued by the State seed certification agency verifying that the wheat is certified seed);

(2) *Growers.* In addition to the documents required in paragraph (c)(1) of this section, growers must submit a copy of the receipt for the final sale of the wheat, showing the total bushels sold and the total price received by the grower. Growers compensated under paragraph (b)(1) of this section (previously regulated areas) whose wheat was not tested prior to sale must submit documentation showing that the price paid to the grower was contingent on test results (such as a copy of

the receipt for the final sale of the wheat or a copy of the contract the grower has for the wheat, if this information appears on those documents).

(3) *Handlers and seed companies.* In addition to the documents required in paragraph (c)(1) of this section, handlers and seed companies must submit a copy of the receipt for the final sale of the wheat, showing the total bushels sold and the total price received by the handler or seed company. The handler or seed company must also submit documentation showing that the price paid or to be paid to the grower is not contingent on the test results (such as a copy of the receipt for the purchase of the wheat or a copy of the contract the handler or seed company has with the grower, if this information appears on those documents).

(d) *Special allowance for negative wheat grown in Archer, Baylor, Throckmorton, and Young Counties, TX, in the 2000-2001 growing season.* Notwithstanding any other provision of this section, wheat that was harvested from fields in Archer, Baylor, Throckmorton, or Young Counties, TX, in the 2000-2001 growing season, and that tested negative for Karnal bunt after harvest, is eligible for compensation in accordance with paragraph (a) of this section.

(e) *Special allowance for disposal costs for treated uncertified wheat seed in Archer, Baylor, Throckmorton, and Young Counties, TX, in the 2000-2001 growing season.* Notwithstanding any other provision of this section, growers in Archer, Baylor, Throckmorton, or Young Counties, TX, who own treated uncertified wheat seed that tested positive for Karnal bunt spores during the 2000-2001 growing season are eligible for compensation in accordance with this paragraph. The grower is eligible for compensation for the costs of disposing of such wheat seed, by burial on the grower's premises, by burial at a landfill, or through another means approved by APHIS. The compensation for disposing of wheat seed by burial on the grower's premises is \$1.00 per bushel. The compensation for disposing of wheat seed by burial at a landfill, or through another means approved by APHIS, is the actual cost of disposal, up to \$1.20 per bushel, as verified by re-

ceipts for disposal costs. To apply for this compensation, the grower must submit a Karnal Bunt Compensation Claim form, provided by FSA, and must also submit a copy of the Karnal bunt certificate issued by APHIS that shows the Karnal bunt test results, and verification as to the actual (not estimated) weight of the uncertified wheat seed that tested positive for spores (such as a copy of a facility weigh ticket, or other verification). For seed disposed of by burial at a landfill the grower must also submit one or more receipts for the disposal costs of the uncertified wheat seed, showing the total bushels destroyed and the total disposal costs (landfill fees, transportation costs, etc.).

[63 FR 31599, June 10, 1998, as amended at 64 FR 34113, June 25, 1999; 66 FR 40842, Aug. 6, 2001; 67 FR 21566, May 1, 2002]

§ 301.89-16 Compensation for grain storage facilities, flour millers, and National Survey participants for the 1999-2000 and subsequent crop seasons.

Owners of grain storage facilities, flour millers, and participants in the National Karnal Bunt Survey are eligible to receive compensation from the United States Department of Agriculture (USDA) for the 1999-2000 and subsequent crop seasons to mitigate losses or expenses incurred because of the Karnal bunt regulations and emergency actions, as follows:

(a) *Decontamination of grain storage facilities.* Owners of grain storage facilities that are in States where the Secretary has declared an extraordinary emergency, and who have decontaminated their grain storage facilities pursuant to either an Emergency Action Notification (PPQ Form 523) issued by an inspector or a letter issued by an inspector ordering decontamination of the facilities, are eligible to be compensated, on a one time only basis for each facility for each covered crop year wheat, for up to 50 percent of the direct cost of decontamination. However, compensation will not exceed \$20,000 per grain storage facility (as defined in § 301.89-1). General clean-up, repair, and refurbishment costs are excluded from compensation. Compensation payments

will be issued by APHIS. To claim compensation, the owner of the grain storage facility must submit to an inspector records demonstrating that decontamination was performed on all structures, conveyances, or materials ordered by APHIS to be decontaminated. The records must include a copy of the Emergency Action Notification or the letter from an inspector ordering decontamination, contracts with individuals or companies hired to perform the decontamination, receipts for equipment and materials purchased to perform the decontamination, time sheets for employees of the grain storage facility who performed activities connected to the decontamination, and any other documentation that helps show the cost to the owner and that decontamination has been completed. Claims for compensation for the 1999-2000 crop season must be received by APHIS on or before December 4, 2001. Claims for compensation for the 2000-2001 crop season and beyond must be received by March 1 of the year following that crop season. The Administrator may extend these deadlines upon written request in specific cases, when unusual and unforeseen circumstances occur that prevent or hinder a claimant from requesting compensation on or before these dates.

(b) *Flour millers.* Flour millers who, in accordance with a compliance agreement with APHIS, heat treat millfeed that is required by APHIS to be heat treated are eligible to be compensated at the rate of \$35.00 per short ton of millfeed. The amount of millfeed compensated will be calculated by multiplying the weight of wheat from the regulated area received by the miller by 25 percent (the average percent of millfeed derived from a short ton of grain). Compensation payments will be issued by APHIS. To claim compensation, the miller must submit to an inspector verification as to the actual (not estimated) weight of the wheat (such as a copy of a facility weigh ticket or a copy of the bill of lading for the wheat, if the actual weight appears on those documents, or other verification). Flour millers must also submit verification that the millfeed was heat treated (such as a copy of the limited permit under which the wheat

was moved to a treatment facility and a copy of the bill of lading accompanying that movement; or a copy of PPQ Form 700 (which includes certification of processing) signed by the inspector who monitors the mill). Claims for compensation for the 1999-2000 crop season must be received by APHIS on or before December 4, 2001. Claims for compensation for the 2000-2001 crop season and beyond must be received by March 1 of the year following that crop season. The Administrator may extend these deadlines upon written request in specific cases, when unusual and unforeseen circumstances occur that prevent or hinder a claimant from requesting compensation on or before these dates.

(c) *National Karnal Bunt Survey participants.* If a grain storage facility participating in the National Karnal Bunt Survey tests positive for Karnal bunt, the facility will be regulated, and may be ordered decontaminated, pursuant to either an Emergency Action Notification (PPQ Form 523) issued by an inspector or a letter issued by an inspector ordering decontamination of the facility. If the Secretary has declared an extraordinary emergency in the State in which the grain storage facility is located, the owner will be eligible for compensation as follows:

(1) *Loss in value of positive wheat.* The owner of the grain storage facility will be compensated for the loss in value of positive wheat. Compensation will equal the estimated market price for the relevant class of wheat minus the actual price received for the wheat. The estimated market price will be calculated by APHIS for each class of wheat, taking into account the prices offered by relevant terminal markets (animal feed, milling, or export) during the relevant time period for that facility, with adjustments for transportation and other handling costs. However, compensation will not exceed \$1.80 per bushel under any circumstances. Compensation payments for loss in value of wheat will be issued by the Farm Service Agency (FSA). To claim compensation, the owner of the facility must submit to the local FSA office a Karnal Bunt Compensation Claim form, provided by FSA. The owner of the facility must also submit

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to FSA a copy of the Emergency Action Notification or letter from an inspector under which the facility is or was quarantined; verification as to the actual (not estimated) weight of the wheat (such as a copy of a facility weigh ticket or a copy of the bill of lading for the wheat, if the actual weight appears on those documents, or other verification); and a copy of the receipt for the final sale of the wheat, showing the total bushels sold and the total price received by the owner of the grain storage facility. Claims for compensation for the 1999–2000 crop season must be received by APHIS on or before December 4, 2001. Claims for compensation for the 2000–2001 crop season and beyond must be received by March 1 of the year following that crop season. The Administrator may extend these deadlines upon written request in specific cases, when unusual and unforeseen circumstances occur that prevent or hinder a claimant from requesting compensation on or before these dates.

(2) *Decontamination of grain storage facilities.* The owner of the facility will be compensated on a one time only basis for each grain storage facility for each covered crop year wheat for the direct costs of decontamination of the facility at the same rate described under paragraph (a) of this section (up to 50 per cent of the direct costs of decontamination, not to exceed \$20,000 per grain storage facility). Compensation payments for decontamination of grain storage facilities will be issued by APHIS, and claims for compensation must be submitted in accordance with the provisions in paragraph (a) of this section. Claims for compensation for the 1999–2000 crop season must be received by APHIS on or before December 4, 2001. Claims for compensation for the 2000–2001 crop season and beyond must be received by March 1 of the year following that crop season. The Administrator may extend these deadlines upon written request in specific cases, when unusual and unforeseen circumstances occur that prevent or hinder a claimant from requesting compensation on or before these dates.

[63 FR 31600, June 10, 1998, as amended at 64 FR 34113, June 25, 1999; 66 FR 40842, Aug. 6, 2001]

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Subpart—Corn Cyst Nematode [Reserved]

Subpart—European Larch Canker

SOURCE: 49 FR 18992, May 4, 1984, unless otherwise noted.

QUARANTINE AND REGULATIONS

§ 301.91 Quarantine and regulations; restrictions on interstate movement of regulated articles.¹

(a) *Quarantines and regulations.* The secretary of agriculture hereby quarantines the State of Maine in order to prevent the artificial spread of European larch canker, *Lachnellula willkommii* (Dasyscypha), a dangerous plant disease of trees of the *Larix* and *Pseudolarix* species not hereto fore widely prevalent or distributed within and throughout the United States; and hereby establishes regulations governing the interstate movement of regulated articles specified in § 301.91–2

(b) *Restrictions on interstate movement of regulated articles.* No common carrier or other person shall move interstate from any regulated area any regulated article except in accordance with the conditions prescribed in this subpart.

[49 FR 18992, May 4, 1984, as amended at 66 FR 21053, Apr. 27, 2001]

§ 301.91–1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

Certificate. A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that such article is eligible for interstate movement in accordance with § 301.91–5(a).

¹Any properly identified inspector is authorized to stop and inspect persons and means of conveyance, and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).